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November 8, 2013

The Honorable Richard M. Berman
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: ***United States v. Rudy Kurniawan***
S1 12 Cr. 376 (RMB)
Doctor Evaluation

In response to the Government's letter of November 7, 2013 relating to our desire to have forensic psychiatrists conduct an evaluation of our client, and the Government's request for a status conference, we are available for such a hearing if the Court desires. I can be available in Court on Tuesday the 12th of November or by phone any day thereafter, except Wednesday the 13th.

We are not seeking and do not anticipate, an incompetency claim or an insanity defense. It is not our intention to attempt to delay the trial. Instead, there are certain things that have come to our attention during our brief time with our client that we believe require further evaluation. I have explained this in more detail to the government.

It is significant to note that, at this point, we have only asked that the doctors be allowed access to our client in order to perform their evaluation. If he were not held in detention that would have been something we could have done without even telling anyone, especially the world. We do not know what the results of the evaluation will be and whether it will provide information that may be useful or probative of any point. Our determination of this need has only recently manifested. The doctors were only retained last week.

The government points out that it is only 32 (now 31) days until trial. Apparently this means the defense should know all the testimony it intends to present. If this case was proceeding on an 'open file' policy that might be true.

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The Government has listed 26 names in its proposed examination of prospective jurors. We do not know how many of those people will actually be witnesses. We do not know what these people have said to the Government. We will not have this information until the week before trial. Working under these circumstances it is impossible for us to determine with any degree of comfort what evidence we will need to present at trial.

Our request to the Court was, and at this point, still is only to allow the doctors the necessary access to perform their evaluation.

Respectfully submitted,

WESTON, GARROU & MOONEY

By / s /
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